

FEDERAL ELECTION COMMISSION

In the matter of:

MUR# _____

MATTHEW HARPER JONES, MATT JONES FOR KENTUCKY EXPLORATORY COMMITTEE by and through its Treasurer Andrew Jefferson, IHEARTMEDIA, INC., and SIMON & SCHUSTER, INC.,

Respondents.

COMPLAINT

1. J. McCauley Brown, by and through Counsel, bring this complaint pursuant to 52 U.S.C. 30109(a)(1) seeking an immediate investigation and enforcement action against Matthew Harper Jones, his campaign committee and its treasurer, iHeartMedia, Inc., and Simon & Schuster, Inc. (collectively "Respondents"), for direct and serious violations of the Federal Election Campaign Act of 1971, as amended ("FECA") and Federal Election Commission (the "FEC" or "Commission") regulations.
2. Pursuant to FECA, corporations are prohibited from making contributions to federal candidates, and federal candidates are prohibited from accepting corporate contributions. This complaint involves egregious violations of these prohibitions by a candidate for United States Senate, Matt Jones, and multiple corporations.
3. The violations detailed in this complaint are heightened by Jones' and his campaign's attempts to conceal them from the FEC and the public by failing to disclose reportable contributions and expenditures related to his campaign radio

show and campaign tour across the Commonwealth of Kentucky which is being financed by Jones' corporate backers.

RESPONDENTS

4. Matthew Harper Jones ("Matt Jones" or "Jones") is a federal candidate for United State Senate, running in the Democratic primary election in Kentucky.
5. Matt Jones for Kentucky Exploratory Committee (the "Campaign Committee") is a federal principal campaign committee formed under the FECA on September 10, 2019.
6. Andrew Jefferson is the treasurer of the Campaign Committee.
7. iHeartMedia, Inc. ("iHeartMedia") is a mass media corporation that, among other activities, provides syndication of radio programming.
8. Simon & Schuster, Inc. ("Simon & Schuster") is a publishing company with headquarters in New York, New York.

FACTUAL BACKGROUND

Matt Jones Is A Candidate For United States Senate

9. On September 10, 2019, Matt Jones filed FEC Form 2, titled Statement of Candidacy, declaring his candidacy for the Office of U.S. Senator representing Kentucky (enclosed as Exhibit 1).
10. Concurrent with his Statement of Candidacy, Mr. Jones established his principal campaign committee by filing FEC Form 1, titled Statement of Organization (enclosed as Exhibit 2).¹

¹ On September 16, 2019, Mr. Jones' campaign amended FEC Form 1 to update the committee's contact information and custodian of records.

11. Subsequently, on October 15, 2019, Mr. Jones' campaign filed FEC Form 3, titled Report of Receipts and Disbursements, for the quarterly reporting period ending September 30, 2019 (enclosed as Exhibit 3).
12. Mr. Jones' campaign reported receipts of \$9,702.53 and disbursements of \$9,702.53 for the third quarter.
13. Press reports also indicate that Mr. Jones has received additional contributions from prominent political donors in the state since filing his Form 3.²
14. While Mr. Jones has, on occasion, stated that he is only exploring a candidacy and has not yet committed himself to run for U.S. Senate, the facts set forth in Paragraphs 9-13 above establish that he is a "candidate" for purposes of 52 U.S.C. § 30101(2).³

² Joe Sonka, *Major Political Donor Christy Brown Shows Interest In Matt Jones' Senate Bid*, LOUISVILLE COURIER JOURNAL (Oct. 8, 2019), <https://www.courier-journal.com/story/news/politics/2019/10/08/major-democratic-donor-shows-interest-matt-jones-senate-bid/3906715002>.

³ Moreover, Mr. Jones has also referred to himself as a candidate and promoted his candidacy on Twitter and in public forums throughout the state, where he tells voters he is the only credible candidate running. See, e.g., Dep' of Political Science, W. Ky. Univ., *Panel Discussion featuring Matt Jones and Scott Jennings* (Oct. 24, 2019) ("I have a platform that other Democrats don't. ... We elected a reality show host and we have shown that we are open to candidates ... well I'm not going to get into my campaign speech ..."); Matt Jones (@MattJonesRadio), TWITTER (June 26, 2019, 10:18 PM) ("The best 'plan to deal with Mitch McConnell' is to beat him in 2020), <https://twitter.com/MattJonesRadio/status/1144067555151228928>; Matt Jones (@KySportsRadio), TWITTER (Sep. 19, 2019, 6:37 PM) ("Mike if your sports fandom makes you think McConnell would support those striking UAW workers more than I would, then that would be a bad decision on your part[,] Sports is fun ... this Senate race is real"), <https://twitter.com/KySportsRadio/status/1174814714469257217>; Matt Jones (@KySportsRadio), TWITTER (Aug. 18, 2019, 3:20 PM) ("Time for a controversial stance for a Senate race ... 'Hanging by a Moment' by Lifehouse is a really good song no matter what you say"), <https://twitter.com/KySportsRadio/status/1163168686749945856>; Matt Jones (@KySportsRadio), TWITTER (Sep. 20, 2019, 4:25 PM) ("I have a connection to rural voters that no other candidate does (including Mitch). They will listen to me and give me a chance, whereas they won't many others..."), <https://twitter.com/KySportsRadio/status/1175143994403299337>.

Jones' Radio Show Promotes His Political Campaign

15. Mr. Jones hosts a syndicated radio show, Kentucky Sports Radio (“KSR”), which is broadcast across the Commonwealth of Kentucky from 10:00 am to noon, Monday through Friday.⁴
16. The radio show, which is syndicated by iHeartMedia, is carried by 50 radio affiliates covering 37 different media markets across Kentucky.⁵ It is also freely available worldwide through the internet.⁶
17. On information and belief, Mr. Jones owns and controls the radio show KSR via a Kentucky-organized, manager-controlled limited liability company named “Kentucky Sports Radio LLC.”⁷ This LLC was formed in 2008 by Mr. Jones as organizer, and Mr. Jones is recorded as being one of two current managers of the company.⁸
18. KSR was conceived, and previously served as, a platform for Mr. Jones to provide “University of Kentucky Basketball, Football, and Recruiting news brought to you in the most ridiculous manner possible.”⁹
19. However, Mr. Jones now uses KSR as a platform to promote his candidacy for U.S. Senate to the relevant Kentucky electorate.¹⁰

⁴ KSR also offers an online sports blog. See <https://kentuckysportsradio.com>.

⁵ See <https://kentuckysportsradio.com/main/ksr-show-thread-10-17-live-from-hancock-county>.

⁶ See <https://www.iheart.com/podcast/484-ksr-kentucky-sports-radio-28233652>.

⁷ See Kentucky Sports Radio LLC, *Articles of Amendment* (Aug. 28, 2013), [http://apps.sos.ky.gov/ImageWebViewer/\(S\(agve5555kspu04452sbl1b45\)\)/OBDBDisplayImage.aspx?id=5616688](http://apps.sos.ky.gov/ImageWebViewer/(S(agve5555kspu04452sbl1b45))/OBDBDisplayImage.aspx?id=5616688).

⁸ See *Kentucky Sports Radio LLC*, Ky. Sec’y of State Online Services (last accessed Oct. 22, 2019), [https://app.sos.ky.gov/ftshow/\(S\(uhjg0m333vcwydqklfquhhoz\)\)/default.aspx?path=ftsearch&id=0687174&ct=06&cs=99999&ce=%2fw3YNo6C0WdC6%2ffcdpYICevSnbFNJq5H4mgUr%2fdrZUp4NGUotHZ081a23L9t4IyW](https://app.sos.ky.gov/ftshow/(S(uhjg0m333vcwydqklfquhhoz))/default.aspx?path=ftsearch&id=0687174&ct=06&cs=99999&ce=%2fw3YNo6C0WdC6%2ffcdpYICevSnbFNJq5H4mgUr%2fdrZUp4NGUotHZ081a23L9t4IyW).

⁹ Masthead, KY. SPORTS RADIO (last access Oct. 22, 2019), <https://kentuckysportsradio.com>.

¹⁰ See, e.g., *Kentucky Sports Radio, Hour 2* at 00:41:50 (Oct. 9, 2019) (“Here’s one of the things. Every place I go in this state, one of the questions I ask is when is the last time Mitch McConnell has been here? And they say never, or they say it’s been ten years.”), <https://www.iheart.com/podcast/484-ksr-kentucky-sports>.

Jones' Book And Statewide Tour Are Linked To His Campaign

20. On August 15, 2019, the Washington Post reported that Mr. Jones was writing a book that is “planned as a political rebuke of the second most powerful Republican in the country,” Senator Mitch McConnell.¹¹
21. Mr. Jones’ politically timed book is slated for publication in the summer of 2020, immediately preceding the election where Mr. Jones hopes to challenge Senator McConnell.¹²
22. Shortly after news of his forthcoming book was made public, Mr. Jones announced he was embarking on a tour across the Commonwealth, where he would travel to all of Kentucky’s 120 counties and talk with voters about “what [Senator McConnell’s] impact on people across the state has been in a very real way.”¹³ The Washington Post noted that this tour would focus on Jones’ political activities.¹⁴ Mr. Jones explained his plan for the statewide tour and book was “to spend the next

[radio-28233652/episode/2019-10-09-ksr-hour-2-50489783](https://www.iheart.com/podcast/484-ksr-kentucky-sports-radio-28233652/episode/2019-10-09-ksr-hour-2-50489783); *Kentucky Sports Radio, Hour 1* at 00:07:05 (July 9, 2019) (“I thought my reasoning was very simple because I think Mitch McConnell does not stand up for the average Kentuckian, the kind of person that’s here.”), <https://www.iheart.com/podcast/484-ksr-kentucky-sports-radio-28233652/episode/2019-07-09-ksr-hour-46772964>; *Kentucky Sports Radio, Hour 1* at 00:26:30 (May 7, 2019) (“So yeah, I think the chance, look, the chance of winning would be not high. But I will say this, I’m the only person I think who can win.”), <https://www.iheart.com/podcast/484-ksr-kentucky-sports-radio-28233652/episode/2019-05-07-ksr-hour-1-31169445>; *Kentucky Sports Radio, Hour 2* at 00:03:27 (May 7, 2019) (“I will keep doing the show no matter what ... this would be the daily communication, I think it would be fascinating. Right? Like as we’re tracking ... yes, we would keep doing the show, uh, all the way though the campaign.”), <https://www.iheart.com/podcast/484-ksr-kentucky-sports-radio-28233652/episode/2019-05-07-ksr-hour-2-31169396>; *Kentucky Sports Radio, Hour 2* at 00:17:57 (Apr. 16, 2019) (“I think he [Senator McConnell] has been in office too long ... I mean, term limits would do so many good things for this country ... So that to me is the one, even if you like him, you’ve got to agree. Nobody should be in office for 36 years.”), <https://www.iheart.com/podcast/484-ksr-kentucky-sports-radio-28233652/episode/2019-04-16-ksr-hour-2-30832575>.

¹¹ Ben Strauss, *Kentucky Sports Radio Host Plans Book-Length Rebuke of Mitch McConnell*, WASH. POST. (August 15, 2019), <https://www.washingtonpost.com/sports/2019/08/15/kentucky-sports-radio-host-plans-book-length-rebuke-mitch-mcconnell>.

¹² *Id.*

¹³ Tyler Thompson, *Matt Jones, Chris Tomlin Writing Book About Mitch McConnell*, KY. SPORTS RADIO (Aug. 15, 2019, 9:44 AM), <https://kentuckysportsradio.com/main/matt-jones-chris-tomlin-writing-book-about-mitch-mcconnell>.

¹⁴ Strauss, *supra* n.11.

four months visiting each of Kentucky's 120 counties to dig up 120 stories 'to showcase how I feel like Senator McConnell has kind of forgotten about his state.'"¹⁵

23. Subsequent to these announcements, Mr. Jones' launched his campaign for U.S. Senator for Kentucky, discussed *supra*; a campaign he hopes will give him the opportunity to challenge Senator McConnell in 2020.

24. After launching his campaign, Mr. Jones began his tour across the state, which upon information and belief is being financed at least in part by Simon & Schuster.¹⁶

25. Mr. Jones has linked his statewide tour with his candidacy for U.S. Senate, and uses the statewide tour to routinely discuss his political beliefs with voters and gauge their opinions on Senator McConnell.¹⁷

26. Mr. Jones uses his radio show to broadcast his statewide tour, which serves to promote both his candidacy and his campaign-related book.¹⁸

¹⁵ Lucas Aulbach, *Matt Jones Says His New Book, 'Mitch, Please!' Will Even Appeal To Fans Of Mitch McConnell*, LOUISVILLE COURIER JOURNAL (Aug. 15, 2019), <https://www.courier-journal.com/story/news/politics/2019/08/15/ksr-matt-jones-new-book-on-mitch-mcconnell-coming-2020/2017964001>.

¹⁶ See Rachael Deahl, *Book Deals: Week of August 26, 2019*, PUBLISHER'S WEEKLY (Aug. 23, 2019) ("The owner, founder, and on-air host of Kentucky Sports Radio (KSR), Matt Jones, sold *Mitch, Please!* to Simon & Schuster. Jonathan Karp bought world rights, from CAA, to the book ... S&S said the title will feature 'stories from each of the 120 counties in the state, highlighting how the five-time senator and current senate majority leader has failed Kentuckians, economically and socially, over the last three decades.' ... Jones has used KSR, which is in 37 markets, to 'discuss politics as well as sports.'"), <https://www.publishersweekly.com/pw/by-topic/industry-news/book-deals/article/80994-book-deals-week-of-august-26-2019.html>; see also *Kentucky Sports Radio, Hour 1* at 00:03:00 (Aug. 15, 2019) (discussing how the book deal "came about"), <https://www.iheart.com/podcast/484-ksr-kentucky-sports-radio-28233652/episode/2019-08-15-ksr-hour-1-47990176>.

¹⁷ See *Raw Video: Matt Jones Discusses Possible Run for US Senate* at 00:35 (Aug. 29, 2019) ("Since I'm doing a seven-week tour across the State to write my book, it felt like this was a good [inaudible] for my candidacy across the State."), https://www.wdrb.com/raw-video-matt-jones-discusses-possible-run-for-us-senate/video_bb85f382-ecce-5c0b-b2f9-660022d1c72c.html.

¹⁸ See, e.g., *Kentucky Sports Radio, Hour 1* at 00:02:30 (Aug. 29, 2019) (Matt Jones discussing his decision to form a principal campaign committee), <https://www.iheart.com/podcast/484-ksr-kentucky-sports-radio-28233652/episode/2019-08-29-ksr-hour-1-48569545>; Tyler Thompson, *KSR Show Thread 9/18: Live from Marshall County, Ky. Sports Radio* (Sep. 18, 2019, 9:55 AM) ("Tune in to hear Matt, Drew, Ryan, and

27. The book's publisher, Simon & Schuster, confirms that the book is nothing more than a political stump speech by Mr. Jones', who seeks to convince Kentucky that he alone can defeat Senator McConnell:

In 2020, Mitch McConnell will have served five full terms as a US Senator. Thirty years. The Senate Majority leader's power is as undeniable as it is infuriating, and, the people of Kentucky have had enough. *Led by Matt Jones, they (and they alone) have the power to oust him from office.*

* * *

Only the people of Kentucky can remove [McConnell] from office. *Here, Matt Jones demonstrates he has the influence, charisma, and institutional knowledge to lead the charge.*¹⁹

Jones' Campaign Fails To Disclose Expenditures Related To His Campaign

28. Remarkably, with all of the campaign related expenses tied to Mr. Jones' statewide tour promoting his campaign, and the promotion of his campaign on KSR, it does not appear Mr. Jones' campaign has reported any of these expenditures on its FEC Form 3 filed October 15, 2019.

29. Moreover, upon information and belief, Mr. Jones' publisher Simon & Schuster is paying for his statewide campaign tour.

30. iHeartMedia, through its continued syndication of his radio show KSR, is also providing an in-kind contribution to Mr. Jones' Senate campaign.

Shannon break down the news of the day and discuss the latest adventures on Matt's book tour around the state."'), <https://kentuckysportsradio.com/main/ksr-show-thread-9-18-live-from-marshall-county>.

¹⁹ *Mitch, Please!: About the Book*, Simon & Schuster (last accessed Oct. 20, 2019) (emphasis added), <https://www.simonandschuster.com/books/Mitch-Please!/Matt-Jones/9781982142049>.

COUNT I

KSR Is Not Entitled To The Media Exemption And iHeartMedia's Syndication Is A Corporate Contribution To Jones' Campaign

31. KSR does not satisfy the requirements for FECA's "media exemption" to the definition of "expenditure." As the Commission's General Counsel has previously explained, "the media activity of a candidate host is held to a different standard than the media activity of a third-party host or commentator discussing or interviewing a candidate."²⁰
32. FECA provides that "[t]he term 'expenditure' does not include – (i) any news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication, unless such facilities are owned or controlled by any political party, political committee, or candidate."²¹
33. The Commission conducts a two-step analysis to determine whether the media exemption applies.²²
- a. The Commission first determines whether the entity engaged in such activity is a press or media entity; then, the Commission applies the two-part test from *Reader's Digest*.²³
 - b. In *Reader's Digest*, the court explained that in order for a media entity's activities to fall under the media exemption, the media entity must establish:
 - (1) that it is not owned or controlled by a political party, political committee,

²⁰ MUR 4689 (Dorman), First General Counsel's Report at 14 (Aug. 4, 1999).

²¹ 52 U.S.C. § 30101(9)(B)(i); see also 11 C.F.R. §§ 100.73, 100.132.

²² See Advisory Opinion 2010-08 (Citizens United).

²³ *Id.*

or candidate; and (2) that it is acting as a media entity in conducting the activity at issue.²⁴

34. KSR fails both prongs of the media exemption analysis under *Reader's Digest*.

Accordingly, any spending by KSR pertaining to Jones' campaign (i.e., that is "campaign related") constitutes an in-kind contribution to the campaign, and iHeartMedia's payments in connection with the syndication of the broadcast is an in-kind contribution to Jones' campaign.

35. The first prong of the *Reader's Digest* test, regarding ownership or control, mirrors the statutory language. Here, KSR is owned and controlled by the candidate, Mr. Jones. KSR is organized as a limited liability corporation under the laws of the Commonwealth of Kentucky and is controlled by its managers. Mr. Jones is the founder, organizer, and one of only two current managers of KSR. This alone is enough to place KSR outside of the media exemption. The Commission has previously found that a publication is not entitled to the media exemption where it is "controlled" by a candidate's campaign committee.²⁵

36. To satisfy the second prong of the Readers Digest standard, a media entity must act as a media entity, that is, its activity must be consistent with a "legitimate press function."²⁶ KSR does not meet this standard.

37. The Commission has previously concluded that a press entity is not acting within its 'legitimate press function' when a person pays the press entity to air the

²⁴ *Reader's Digest Ass'n v. FEC*, 509 F. Supp. 1210, 1215 (S.D.N.Y. 1981).

²⁵ See MUR 3847 (Stockman), Conciliation Agreement at ¶ 7 (June 2, 1998).

²⁶ *Reader's Digest*, 509 F. Supp. at 1214.

communication in question and that person maintains control over the content of the communication.”²⁷

38. Additionally, when determining whether a media entity is engaged in its legitimate press functions, consideration is paid to whether the activity is comparable in form to the entity’s usual media activity.²⁸

39. KSR’s stated media function is to offer “University of Kentucky Basketball, Football, and Recruiting news brought to you in the most ridiculous manner possible.”²⁹

40. The current iteration of KSR, which serves to promote Mr. Jones’ personal political aspirations, is not “comparable in form” to the show as it has existed in the past. The show’s content and format has changed now that Mr. Jones is a candidate. In addition to the frequent discussions of Mr. Jones’ candidacy, Mr. Jones has (for the first time) taken his show on a statewide campaign tour to all of Kentucky’s 120 counties, several of which Mr. Jones’ admits he has never visited before.³⁰

41. Where, as here, a radio show deviates from providing its ordinary sports radio content and shifts its focus to serving as a personal campaign outlet for Mr. Jones, including broadcasting on the road at each of his campaign tour stops, it no longer serves a legitimate media function. In short, KSR is acting “in a manner atypical of

²⁷ MUR 7073 (Melusky), First General Counsel’s Report at 14 (Apr. 13, 2017) (citing MUR 6089 (People with Hart Inc.) and MUR 5297 (Wolfe)).

²⁸ See Advisory Opinion 2010-08 (Citizens United) (citing *FEC v. Mass. Citizens for Life (MCFL)*, 479 U.S. 238, 251 (1986)).

²⁹ See Masthead, KY. SPORTS RADIO (last accessed Oct. 22, 2019), <https://kentuckysportsradio.com>.

³⁰ See, e.g., *Kentucky Sports Radio, Hour 1* at 00:02:35 (Sep. 19, 2019) (mentioning that Jones had not previously visited Trigg county, where he is broadcasting from, and discussing other counties visited on the statewide tour that Jones had not previously been to), <https://www.iheart.com/podcast/484-ksr-kentucky-sports-radio-28233652/episode/2019-09-19-ksr-hour-1-49413205>.

a press entity.”³¹ KSR does not exercise a legitimate press function when a sports radio show is converted to a vehicle to promote Mr. Jones’ purely private interests, namely, his candidacy and forthcoming political book.

42. Mr. Jones use of KSR to serve the interests of his campaign is akin to the sort of activity the *Reader’s Digest* court explained was beyond the bounds of the media exemption. As the court wrote, “[i]f, for example, on Election Day a partisan newspaper hired an army of incognito propaganda distributors to stand on street corners denouncing allegedly illegal acts of a candidate and sent sound trucks through the streets blaring the same denunciations, all in a manner unrelated to the sale of its newspapers, this activity would not come within the press exemption.”³²

43. Despite failing to qualify for the media exemption, iHeartMedia continues to syndicate KSR and subsidize Mr. Jones’ promotion of his candidacy and statewide campaign tour across Kentucky.

44. By paying for Mr. Jones’ platform to advance his political campaign, iHeartMedia is providing a prohibited corporate contribution to Mr. Jones’ campaign.

³¹ See, e.g., MUR 6779 (Gilbert), First General Counsel’s Report at 12 (Nov. 18, 2014) (explaining that “even if an entity is deemed to be a press entity, if it were to act in a manner atypical of a press entity in the way in which it engages in core electioneering activities, the media exemption will not shield that particular conduct.”); MUR 4689 (Doman), First General Counsel’s Report at 19 (Aug. 4, 1999) (“[T]he Commission has indicated the following determinate factors as to whether a press entity is acting as a press entity in performing its media function: 1) the extent to which the press entity retains control over the means of presentation of the candidate, 2) the manner in which the press entity utilizes campaign related material, and 3) whether the press entity takes affirmative steps to ensure that viewers do not conclude that the airing of the programs or material constitutes an endorsement by the network or syndicators of the candidate depicted.”); cf. MUR 7206 (Bonneville International Corp.), First General Counsel’s Report at 7-8 (Aug. 3, 2017) (“coverage of [candidate] does not appear to have deviated in form from news that respondents ordinarily provide. The respondent media entities state that they exercised their *independent editorial judgment* in determining what is newsworthy” (emphasis added)).

³² *Reader’s Digest*, 509 F. Supp. at 1214.

45. Corporations are prohibited from making direct contributions to candidates for federal office.³³ And candidates for federal office are prohibited from accepting any prohibited corporate contributions.³⁴ A contribution is “any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value” provided to a political committee in connection with any federal election.³⁵ Contributions also include any in-kind contribution, such as goods or services provided without charge or at a charge that is less than the usual and normal charge for such goods and services.³⁶
46. Mr. Jones owns and controls his radio show. Due to the candidate’s ownership and control of the radio show, and the show’s promotion of Mr. Jones’ campaign, the show loses its eligibility for the media exemption.³⁷ That Mr. Jones owns and controls KSR and uses it “to air his own commentary distinguishes this matter from a number of other matters where the press exemption applied to press organizations that employed candidates to host shows owned or controlled by the radio stations.”³⁸
47. “[A]ctivity personally orchestrated or controlled by the candidate is campaign-related.”³⁹ Moreover, it is readily apparent from the radio shows themselves that no steps have been taken by KSR or iHeartMedia to prevent Mr. Jones from engaging

³³ 52 U.S.C. § 30118(a); 11 C.F.R. § 114.2.

³⁴ 52 U.S.C. § 30118(a).

³⁵ 52 U.S.C. §§ 30118(b)(2) and 30101(8)(a); 11 C.F.R. § 114.1(a)(1).

³⁶ 11 C.F.R. § 100.52(d)(1).

³⁷ Not all candidate-hosted television or radio shows automatically lose their media exemption. For example, in Advisory Opinion 1992-05 (Moran), the Commission opined on what constitutes a legitimate public policy show that is *not* campaign related. Where the show made “no mention” of the host’s campaign or election to Federal office and was “devoid of campaign related material or content” the show was found not to constitute a campaign expenditure. Mr. Jones’ radio show fails to conform to this guidance.

³⁸ MUR 7073 (Melusky), Factual and Legal Analysis at 8, n.40 (Dec. 22, 2017).

³⁹ MUR 4689 (Doman), First General Counsel’s Report at 13 (Aug. 4, 1999).

in election related activity on his show. Accordingly, KSR and iHeartMedia have provided Mr. Jones with free campaign advertising time.

48. KSR was once a sports radio program that focused on University of Kentucky sports. Now, it is largely a campaign commercial for Mr. Jones in which he promotes his own candidacy and advocates against the reelection of Senator McConnell. This is beyond the program's "legitimate media function." For this reason, as well, KSR is not eligible for the media exemption. In addition, iHeartMedia makes a prohibited corporate contribution every time it expends corporate funds to distribute Mr. Jones' non-exempt program.
49. In two Advisory Opinions issued in 1992, "the Commission conditioned its approval of candidates appearing in or hosting radio shows and broadcasts on the assurance that they would be: 1) issue-oriented, 2) devoid of campaign related material or content and, 3) committed to refraining from attacks on opponents."⁴⁰ Mr. Jones' radio show does not satisfy these conditions.
50. Additional investigation is further warranted to determine if impermissible corporate contributions are also being provided by advertisers on the campaign-related shows hosted by Mr. Jones.⁴¹

⁴⁰ *Id.* (referencing Advisory Opinions 1992-05 and 1992-37).

⁴¹ *See* Advisory Opinion 1990-05 (Mueller) ("In addition, payments for advertising space in campaign-related newsletters would be contributions to the campaign and, if made from a corporate source, would be prohibited.").

COUNT II

Jones' Statewide Tour Is Inextricably Linked To His Campaign, And Simon & Schuster's Funding Is A Corporate Contribution To Jones' Campaign

51. Here, the facts indicate that Mr. Jones' corporate-funded statewide tour is serving as a series of campaign events. Mr. Jones admits that the purpose of this tour is to advocate his candidacy and discuss his politics with the voters of Kentucky.
52. As discussed above, Mr. Jones contends that he is the sole candidate who can beat Senator McConnell in 2020, and Simon & Schuster is marketing the book as a demonstration of Mr. Jones' ability to "lead the charge" in removing Senator McConnell from office.
53. In light of the foregoing, this "book tour" – in support of a book that has not been published – is not "bona fide commercial activity."⁴²
54. In determining whether specific activity is bona fide commercial activity, the Commission considers a number of factors including whether the activity is engaged in by the vendor for genuinely commercial purposes and not for the purpose of influencing an election.⁴³
55. Under the present facts, Simon & Schuster's financing of Mr. Jones' tour cannot be regarded as genuinely commercial in nature and, by all outward appearances, is in fact designed to influence an election.
56. Perhaps, most telling of the true motivations for this tour is that the book Mr. Jones and Simon & Schuster claim to be promoting has not even been written yet. Allegedly, the book will be released shortly before the 2020 election.

⁴² See Advisory Opinion 2014-06 (Ryan).

⁴³ *Id.*

57. Under these circumstances, there can be no doubt that Mr. Jones' tour is, in fact, a campaign tour and not a tour promoting his book as an author.⁴⁴
58. Moreover, Mr. Jones "book tour" and promotion of his forthcoming work is targeted directly at the relevant electorate, Kentucky voters. This is in direct contrast to previous Advisory Opinions where the Commission has found the commercial activity exception applies to activity that only incidentally reaches the relevant electorate.⁴⁵
59. Accordingly, there can be no commercial purpose for Simon & Schuster financing such a tour; the only conceivable purpose such activity can have is to influence the outcome of an election.⁴⁶
60. Nevertheless, upon information and belief Simon & Schuster has elected to fund, at least in part, the travel and other expenses associated with these campaign events.
61. The expenses paid for by Simon & Schuster, with no cost to Mr. Jones' campaign, can be described as nothing other than in-kind contributions.
62. Accordingly, the FEC has an obligation to investigate and determine whether Simon & Schuster is providing impermissible corporate contributions to Mr. Jones' campaign for U.S. Senate.

⁴⁴ Cf. MUR 6989 (Carson), First General Counsel's Report at 12 (Oct. 20, 2017) (finding the press exemption applied to publication and promotion of a book, and related book tour, where the book was already published and available and was similar to other books published by the publisher). Here, the book has not been published and there is no evidence Simon & Schuster has ever promoted or sponsored a book tour in this format where the purpose is to solicit political content to put in a book before it is even written.

⁴⁵ See, e.g., Advisory Opinion 2014-06 (Ryan) ("Although *the bus tour will not travel through or stop in Wisconsin*, some of the television and radio appearances and print and online media interviews will likely be available within media markets covering Representative Ryan's district." (emphasis added)).

⁴⁶ Cf. *id.*

COUNT III

*Jones' Campaign Failed To Report Expenditures Related To Jones' Radio Show
And To His Statewide Tour Promoting His Campaign*

63. Mr. Jones and his campaign are required to report all campaign expenditures and contributions on FEC Form 3, filed at the end of each quarter.⁴⁷
64. However, none of the prohibited corporate contributions discussed above are reflected on the Form 3 filed by Mr. Jones' campaign on October 15, 2019.
65. Contributions and expenditures related to these campaign activities must be reported, whether impermissibly received from or paid by a corporation or other source.
66. Failure of Mr. Jones' campaign to report corporate contributions must amount to a willful violation of FECA's reporting requirements.⁴⁸

CONCLUSION

WHEREFORE, Respondent Jones and his campaigns' failure to comply with FECA and appropriate FEC regulations warrants investigation by the Commission.

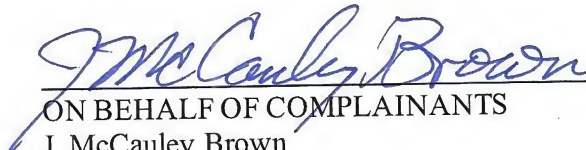
WHEREFORE, corporate Respondents' apparent contributions to Mr. Jones' campaign, prohibited under FECA also warrant investigation.

⁴⁷ 52 U.S.C. § 30104.

⁴⁸ Form 3 filed by Mr. Jones' campaign discloses two expenditures for "travel" on September 11 and September 19, 2019, but no indication is made as to whether these relate to his campaign-travel associated with his statewide tour, or other campaign-related travel. It appears Mr. Jones was traveling both of those dates: On September 11, 2019 Mr. Jones was in New York City, and on September 19, 2019 Mr. Jones was in Trigg County, Kentucky, promoting his book. See *Kentucky Sports Radio, Hour 1* at 00:00:45 (Sep. 11, 2019), <https://www.iheart.com/podcast/484-ksr-kentucky-sports-radio-28233652/episode/2019-09-11-ksr-hour-1-49146151>; *Kentucky Sports Radio, Hour 1* at 00:01:00 (Sep. 19, 2019), <https://www.iheart.com/podcast/484-ksr-kentucky-sports-radio-28233652/episode/2019-09-19-ksr-hour-1-49413205>. Of course, the campaign has reported only the date the expenditure was made, which may not necessarily be the date of travel. Accordingly, additional investigation is warranted to determine the specific campaign-travel these reported expenditures relate.


THEREFORE, Complainants respectfully request that the FEC provide the following relief:

1. Conduct an investigation into the allegations raised against Respondents;
 2. Declare that Respondents have violated the FECA and applicable FEC regulations;
 3. Order Respondents correct these violations;
 4. Impose sanctions appropriate to these violations;
 5. If necessary, bring action in federal court to ensure these violations are punished;
- and
6. Take all other necessary and appropriate action as warranted by these violations, including referring this matter to the Department of Justice for criminal prosecution.


ON BEHALF OF COMPLAINANTS
J. McCauley Brown
PO Box 1068
Frankfort, KY 40602


VERIFICATION

J. McCauley Brown hereby verifies that the statements made in the foregoing Complaint are, upon information and belief, true as presented. Sworn pursuant to 11 C.F.R. § 111.4 and 18 U.S.C. § 1001.


J. McCauley Brown

COMMONWEALTH OF KENTUCKY

SWORN TO AND SUBSCRIBED before me on this 5th day of November, 2019.


Notary Public
#629260

My commission expires:

6/6/2023